



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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Washington, DC 20001

FEB 16 2017

RE: MUR 7215  
(formerly AR 16-02)  
Oklahoma Leadership Council and  
Peter Leo Hodges in his official  
capacity as treasurer

Dear Ms. Newton:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that your clients, Oklahoma Leadership Council and Peter Leo Hodges in his official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 27, 2016, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 52 U.S.C. § 30109. On February 7, 2017, the Commission found reason to believe that the Committee violated 11 C.F.R. § 106.7(d)(1). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as the Committee is notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless the Committee notifies the Commission in writing that it wishes the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a

<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law. Enclosed is a conciliation agreement for your consideration.

If the Committee is interested in engaging in pre-probable cause conciliation, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, the Committee may submit any factual or legal materials that it believes are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if the Committee is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,

  
Steven T. Walther  
Chairman

Enclosures  
Factual and Legal Analysis

170444-160996

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Oklahoma Leadership Council and  
4 Peter Leo Hodges in his official  
5 capacity as treasurer  
6

MUR 7215

7 **I. INTRODUCTION**  
8

9 This matter was generated by a Commission audit of the Oklahoma Leadership Council  
10 ("Committee"), a state committee of the Republican Party,<sup>1</sup> covering the period of January 1,  
11 2011, through December 31, 2012. The Commission approved the Final Audit Report on  
12 September 1, 2016, and the Audit Division referred a recordkeeping finding to the Office of the  
13 General Counsel ("OGC") for possible enforcement action relating to the Committee's failure to  
14 maintain monthly payroll logs to document the percentage of time each employee spent in  
15 connection with a federal election. OGC notified the Committee of the Referral and the  
16 Committee filed a response reiterating some of the arguments presented and considered by the  
17 Commission during the audit process. The Committee also requests that the Commission either  
18 decline to open an enforcement action or refer the matter to the Alternative Dispute Resolution  
19 Office because of efforts that the Committee made prior to and during the course of the audit.  
20 Based on the discussion below, and the facts, analysis, and findings set forth in the Final Audit  
21 Report, which is incorporated by reference, the Commission found that there is reason to believe  
22 that the Committee violated 11 C.F.R. § 106.7(d)(1) by failing to maintain payroll logs regarding  
23 \$178,305 in salary payments.

<sup>1</sup> See the Committee's Amended Statement of Organization dated Sept. 14, 2015.

1    **II.    FACTUAL AND LEGAL ANALYSIS**

2            Commission regulations provide that salaries, wages, and fringe benefits "[paid] to State,  
3    district, or local party committee employees who spend 25 percent or less of their compensated  
4    time in a given month on Federal election activity or on activity in connection with a Federal  
5    election" may be allocated as administrative costs; *i.e.*, may be paid with a combination of funds  
6    from the committee's federal and non-federal accounts.<sup>2</sup> Commission regulations also provide  
7    that when allocating salary, wage, and fringe benefit payments, political party committees are  
8    required to "keep a monthly log of the percentage of time each employee spends in connection  
9    with a Federal election."<sup>3</sup>

10           As set forth in the Final Audit Report, the Commission found that the Committee failed  
11    to maintain monthly payroll logs for \$178,305 in 2011 and 2012 that the Committee disclosed as  
12    having been paid with an allocation of federal and non-federal funds.<sup>4</sup>

13           The Committee asserts that near the end of the audit period and prior to the  
14    commencement of the audit, it made changes to its compliance structure by hiring a new  
15    reporting firm to prepare its reports and handle other compliance matters.<sup>5</sup> The Committee  
16    maintains that it implemented the Commission's 2013 guidelines on recordkeeping for state  
17    party committees, and has fully cooperated with the Audit Division during the audit process.<sup>6</sup>  
18    The Committee further asserts that in recent Commission matters with similar recordkeeping

2            11 C.F.R. §§ 106.7(c)(1), (d)(1)(i), and (d)(2).

3            11 C.F.R. § 106.7(d)(1).

4            *See* Final Audit Report at 11.

5            Committee Resp. at 1.

6            *Id.* at 2.

1 findings, respondents have paid minimal fines for significantly greater amount of disbursements  
2 than at issue in this matter.<sup>7</sup> Nowhere in the Committee's response, however, does it deny the  
3 violations.

4 Based on the foregoing, the Commission found that there is reason to believe that the  
5 Committee violated 11 C.F.R. § 106.7(d)(1).

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<sup>7</sup> *Id.*

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